

JUVENILE COURT MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions related to the juvenile court.

Highlighted Provisions:

This bill:

- amends the original jurisdiction of the juvenile court;
- allows for the juvenile court to enter an order with special findings regarding the abuse, neglect, or dependence of a noncitizen child; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-103, as last amended by Laws of Utah 2022, Chapters 155, 335

ENACTS:

80-3-505, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **78A-6-103** is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

~~[(3)]~~ (4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

~~[(4)]~~ (5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

~~[(5)]~~ (6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

~~[(6)]~~ (7) The juvenile court has jurisdiction to make a finding of substantiated,

90 unsubstantiated, or without merit, in accordance with Section 80-3-404.

91 ~~[(7)]~~ (8) The juvenile court has jurisdiction over matters transferred to the juvenile
92 court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

93 Section 2. Section 80-3-505 is enacted to read:

94 **Part 5. Miscellaneous Hearings and Petitions**

95 **80-3-505. Petition for special findings for at-risk noncitizen child.**

96 (1) As used in this section:

97 (a) "At-risk" means there is reasonable cause to suspect that:

98 (i) a noncitizen child's health, safety, and welfare is, or has been, in jeopardy due to
99 abuse, neglect, abandonment, or similar circumstances; and

100 (ii) the return of the noncitizen child to the noncitizen child's, or the noncitizen child's
101 parent's, country of origin or country of last habitual residence is not in the best interest of the
102 noncitizen child.

103 (b) "Noncitizen child" means an unmarried individual:

104 (i) who is younger than 21 years old; and

105 (ii) who is not a citizen of the United States.

106 (c) "Dependent on the court" means subject to the jurisdiction of the juvenile or district
107 court to make decisions concerning the protection, well-being, care, and custody of a
108 noncitizen child for findings, orders, or referrals to:

109 (i) support the health, safety, and welfare of the noncitizen child; or

110 (ii) remedy the effects on the noncitizen child of abuse, neglect, abandonment, or
111 similar circumstances.

112 (d) "Similar circumstances" means a condition or conditions that have an effect on a
113 noncitizen child comparable to abuse, neglect, or abandonment, including the death of a parent.

114 (2) A noncitizen child who is at-risk may petition the juvenile court for special findings
115 regarding the abuse, neglect, abandonment, or similar circumstances of the noncitizen child.

116 (3) Upon reviewing a petition under Subsection (2) and any supporting evidence, the
117 juvenile court shall enter an order with special findings that determine whether:

118 (a) the noncitizen child:

119 (i) is dependent on the court;

120 (ii) is in the custody of the division or another appropriate person by order of the

juvenile court; or

(iii) has been appointed a guardian by a court;

(b) the noncitizen child has suffered from abuse, neglect, abandonment, or similar circumstances;

(c) the noncitizen child may not be viably reunified with one or both of the noncitizen child's parents due to abuse, neglect, abandonment, or similar circumstances; and

(d) the noncitizen child may not be returned to the noncitizen child's, or the noncitizen child's parent's, country of origin or country of last habitual residence because it is not in the best interest of the child.

(4) In determining the best interest of the noncitizen child under Subsection (3)(d), the court shall consider:

(a) the health, safety, and welfare of the child to be the paramount concern for the noncitizen child; and

(b) whether the present and past living conditions will adversely affect the noncitizen child's physical, mental, or emotional health.

(5) If the identity or location of the noncitizen child's parents is unknown or if the noncitizen child's parents reside outside the United States, the juvenile court may serve notice using any alternative method of service the court determines is appropriate or waive service.

(6) The juvenile court shall hear, adjudicate, and issue findings of fact on any petition for special findings under this section as soon as it is administratively feasible and before the noncitizen child is 21 years old.

(7) (a) The juvenile court may refer a noncitizen child who is the subject of a petition for special findings under this section for psychiatric, psychological, educational, occupational, medical, dental, or social services or for protection against human trafficking or domestic violence.

(b) A noncitizen child's participation in a referred service under Subsection (7)(a) is voluntary.

(8) ~~§~~ ~~→~~ [(a)] ~~←~~ ~~§~~ This section does not ~~§~~ ~~→~~ :

(a) ~~←~~ ~~§~~ limit a noncitizen child from petitioning for special

findings ~~§~~ ~~→~~ [for a petition] ~~←~~ ~~§~~ under any other provision of law or from any other rights and remedies

available to the child under any other provision of law ~~§~~ ~~→~~ [] ; ~~←~~ ~~§~~

~~§~~ ~~→~~ [(b) This section does not] (b) ~~←~~ ~~§~~ limit the juvenile court from issuing similar findings of fact

- 152 for a noncitizen child in any other proceeding concerning the noncitizen child **Ŝ→ [] ; or**
152a **(c) constitute an adjudication for abuse, neglect, or dependency under this chapter.** **←Ŝ**